

UNITED STATES DISTRICT COURT

for the

District of Minnesota

United States of America

v.

Yolanda Dean

Date of Original Judgment:

12/14/1998

Date of Previous Amended Judgment:

(Use Date of Last Amended Judgment if Any)

Case No: 97cr276(3) (MJD/JGL)USM No: 12615-112pro se

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>42</u>	Amended Total Offense Level: <u>42</u>
Criminal History Category: <u>III</u>	Criminal History Category: <u>III</u>
Previous Guideline Range: <u>360 months-life</u>	Amended Guideline Range: <u>360 months-life</u>

II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE☐ The reduced sentence is within the amended guideline range.☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.☐ The reduced sentence is above the amended guideline range.**II. ADDITIONAL COMMENTS**

Defendant's Guideline range is not affected by the retroactive crack cocaine amendment. Therefore, the Court does not have the authority to lower her sentence under 18 U.S.C. § 3582(c)(2). See U.S. v. Tolliver, 570 F.3d 1062, 1066-67 (8th Cir. 2009). Additionally, the Fair Sentencing Act was not retroactive, so she is not entitled to a sentence reduction under that Act. See U.S. v. Neadeau, 639 F.3d 453, 456 (8th Cir. 2011).

Except as otherwise provided, all provisions of the judgment dated _____ shall remain in effect.

IT IS SO ORDERED.

Order Date:

2-13-12

Judge's signature

Effective Date:

(if different from order date)

Michael J. Davis, Chief Judge, D. Minn.

Printed name and title